

E-FILED on: 9/22/2008IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

11 B. DAVID MEHMET,
12 Plaintiff,
13 v.
14 PAYPAL, INC.,
15 Defendant.

No. C-08-01961 RMW

ORDER DENYING MEHMET'S MOTION
FOR LEAVE TO FILE A MOTION FOR
RECONSIDERATION

[Re Docket No. 33]

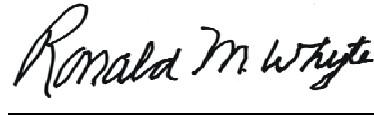
17 Plaintiff B. David Mehmet sued the defendant, Paypal, Inc., on April 14, 2008. On May 27,
18 2008, Mr. Mehmet moved for summary judgment on two of his claims. The court denied the motion
19 pursuant to Rule 56(f) on August 12, 2008. *See Docket No. 26, Mehmet v. Paypal, Inc.*, 2008 WL
20 3495541 (N.D. Cal. Aug. 12, 2008). The court noted that where "a summary judgment motion is
21 filed so early in the litigation, before a party has had any realistic opportunity to pursue discovery
22 relating to its theory of the case, district courts should grant any Rule 56(f) motion [for a
23 continuance] fairly freely." *Id.* at *5 (quoting *Burlington N. Santa Fe R.R. Co. v. Assiniboine &*
24 *Sioux Tribes of the Fort Peck Reservation*, 323 F.3d 767, 773 (9th Cir.2003)). Mr. Mehmet now
25 moves for reconsideration of the denial of his motion for summary judgment.¹

27
28 ¹ "No party may notice a motion for reconsideration without first obtaining leave of Court to
file the motion." Civ. L. R. 7-9(a). The court construes Mr. Mehmet's motion as a motion for leave
to file a motion for reconsideration.

1 A party moving for reconsideration must show that (1) the party was diligent in presenting
2 the law or facts but presented the wrong law or facts at the hearing, (2) the law or facts have changed
3 significantly, or (3) the court made a manifest failure in considering the law or facts presented. Civ.
4 L. R. 7-9(b). Mr. Mehmet fails to establish any of these factors, generally reiterating that his version
5 of events is true and that no discovery could establish otherwise (or establish a defense to his claim).

6 In denying Mr. Mehmet's motion for summary judgment, the court only held that Paypal is
7 entitled to the opportunity to conduct discovery to defend against Mr. Mehmet's claims. The court
8 did not manifestly err in reaching this conclusion. Accordingly, the court denies Mr. Mehmet's
9 motion for leave to file a motion for reconsideration.

10
11 DATED: 9/22/2008



RONALD M. WHYTE
United States District Judge

1 **Notice of this document has been electronically sent to:**

2 **Counsel for Defendants:**

3 Oleg Cross ocross@cooley.com

4 Counsel are responsible for distributing copies of this document to co-counsel that have not
5 registered for e-filing under the court's CM/ECF program.

6 **Notice of this document has been mailed to:**

7 **Plaintiff:**

8 B. David Mehmet
130 Church Street
9 New York, NY 10007

10

11 **Dated:** 9/22/2008

TSF
12 Chambers of Judge Whyte

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28